

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/27/2023

October 19, 2023

BY CM/ECF AND EMAIL

Hon. Analisa Torres
United States District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Contrarian Capital Management, LLC, et al. v. Bolivarian Republic of Venezuela*,
19 Civ. 11018 (S.D.N.Y.) (rel. Nos. 19 Civ. 3123 & 18 Civ. 11940):
Motion To Amend Third Supplemental Complaint

Dear Judge Torres,

We represent Plaintiffs. We write pursuant to your Honor's Individual Practice III.A.i. to request leave to file an Amended Third Supplemental Complaint. Plaintiffs respectfully suggest that the Court rule on this letter and any response without requiring further briefing.

This case arose out of Venezuela's default on bonds held by Plaintiffs. The Court granted summary judgment to Plaintiffs in October 2020, Dkt. 74, and entered judgment shortly thereafter, Dkt. 81. However, principal and interest payments continue to accrue on the bonds, and Venezuela continues to miss those payments. Accordingly, Plaintiffs have filed two supplemental complaints for additional missed payments, and the Court has entered judgments on those supplemental complaints in Plaintiffs' favor. Dkts. 116, 119, 123, 126.

Plaintiffs filed a Third Supplemental Complaint on May 26, 2023, seeking payment on additional missed principal and interest payments. Dkt. 132. However, counsel for Venezuela, Sullivan & Cromwell, stated that it no longer represented Venezuela and moved to withdraw. Dkts. 130, 151. The Court granted the motion to withdraw after Vinson & Elkins appeared as substitute counsel for Venezuela on September 27, 2023. Dkt. 165.

Plaintiffs therefore seek to amend the Third Supplemental Complaint to account for interest payments that Venezuela missed since the Complaint was filed nearly five months ago. The proposed amendments add 7 missed coupon payments worth approximately \$13 million, which bring the total number of missed coupon payments to 43 and the total value of the claim to approximately \$210 million, not including prejudgment interest.

Hon. Analisa Torres

- 2 -

October 19, 2023

Federal Rule of Civil Procedure 15(a)(2) provides that the Court “should freely give leave to amend when justice so requires.” Leave to amend may be denied only for “good reason,” such as “futility, bad faith, undue delay, or undue prejudice.” *Kim v. Kimm*, 884 F.3d 98, 105 (2d Cir. 2018). Amendment is in the interests of justice and efficiency. This case has been delayed by a dispute over Defendant’s representation for which no party bears fault. Now that that dispute is resolved, amendment would allow Plaintiffs to start afresh with an up-to-date complaint.

There is no good reason to deny leave to amend. The amendment is not futile – the elements of Plaintiffs’ claim were established in the Court’s summary-judgment decision. There is no bad faith – Plaintiffs intend only to update their complaint to account for additional missed payments. There is no undue delay – the last missed payment claimed in the amended complaint was due on October 13, 2023, four business days ago. And there is no undue prejudice – Defendant has not answered, moved to dismiss, or otherwise responded to the Third Supplemental Complaint, so amendment will not result in wasted effort or undue burden.

Plaintiffs therefore respectfully request that the Court grant leave to file an Amended Third Supplemental Complaint substantially in the form attached as Exhibit A to this letter. Exhibit B to this letter contains a redline tracking the proposed amendments. If the Court grants leave to amend, Plaintiffs will withdraw their pending application for default judgment. Dkts. 138-141.

Sincerely,

/s/ Steven F. Molo
Steven F. Molo

Cc: All counsel (by CM/ECF)

GRANTED. By **November 10, 2023**, Plaintiffs shall file their Amended Third Supplemental Complaint and withdraw their pending application for default judgment.

SO ORDERED.

Dated: October 27, 2023
New York, New York



ANALISA TORRES
United States District Judge